

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JESSE ELY PENA,

Plaintiff,

vs.

MELISSA INEZ PENN, et al.,

Defendants.

Case No.: 2:11-cv-01682-GMN-PAL

ORDER

Pending before the Court is the Report of Findings and Recommendation (ECF No. 22) filed by United States Magistrate Judge Peggy A. Leen on April 11, 2012. Plaintiff Jesse Ely Pena has filed an Objection (ECF No. 26). For the reasons discussed below, the Court will accept the findings and recommendation, and will dismiss Plaintiff's Complaint.

Plaintiff filed his Complaint along with his Application to Proceed in Forma Pauperis (ECF No. 1). The Court entered an Order approving Plaintiff's application and requiring him to pay an initial partial filing fee in the amount of \$22.29 as required by 28 U.S.C. § 1915(b)(1) on or before March 26, 2012. In the Report of Findings and Recommendation, Judge Leen found that Plaintiff has not paid the initial partial filing fee despite warnings from the Court that failure to pay the initial installment "may result in dismissal of this action." (Order, 1:27, ECF No. 13.) Accordingly, Judge Leen recommended that Plaintiff's Complaint be dismissed.


Under federal statute and the local rules of practice for the District of Nevada, a district judge shall make a *de novo* determination of those portions of the specified findings or recommendations to which objections have been made, and the district judge may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b); D. Nev. R. IB 3-2.

1 In his Objection, Plaintiff states that his financial condition has worsened since his
2 Application was filed, and that his funds were exhausted on personal hygiene and supplies for
3 other actions and proceedings Plaintiff has filed. (Obj. to R&R, ECF No. 26.) He further
4 requests that he be permitted to maintain this action without paying any filing fees at all.

5 After a *de novo* review, the Court concludes that Judge Leen's findings are correct, and
6 will accept the recommendation to dismiss Plaintiff's Complaint. Judge Leen's findings are
7 correct based on the information included in Plaintiff's *in forma pauperis* application, and on
8 information available to the Court at the time.

9 **IT IS HEREBY ORDERED** that the Findings and Recommendation (ECF No. 22) are
10 **ACCEPTED**, and Plaintiff's Complaint shall be **DISMISSED, without prejudice**. The
11 Clerk shall enter judgment accordingly.

12 **DATED** this 15th day of June, 2012.

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Gloria M. Navarro
United States District Judge
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